

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

DAY PITNEY LLP

One Jefferson Road
Parsippany, New Jersey 07054-2891
(973) 966-6300
Attorneys for Creditor
Gotham Technology Group, LLC

In re:

BED BATH & BEYOND INC., et al.

Debtors.

Chapter 11

Case No. 23-13359 (VFP)

Hearing Date: July 11, 2023

NOTICE OF MOTION OF GOTHAM TECHNOLOGY GROUP, LLC (I) TO SET AN IMMEDIATE DEADLINE FOR DEBTOR TO ASSUME OR REJECT EXECUTORY CONTRACT, (II) TO COMPEL PAYMENT OF RELATED CURE COSTS OR ADMINISTRATIVE CLAIMS, OR, IN THE ALTERNATIVE, (III) FOR RELIEF FROM THE AUTOMATIC STAY

PLEASE TAKE NOTICE that creditor Gotham Technology Group, LLC (“Gotham”), by and through its undersigned counsel, will move before the Honorable Vincent F. Papalia on July 11, 2023, or as soon thereafter as counsel may be heard, at the United States Bankruptcy Court for the District of New Jersey, 50 Walnut Street, Courtroom 3B, Newark, New Jersey 07102, for entry of an Order (1) setting a deadline of July 12, 2023 for the Debtor to assume or reject an executory contract with Gotham pursuant to 11 U.S.C. § 365(d)(2); and (2) requiring the Debtor to pay the related unpaid license payments either as cure amounts due in connection with the assumption of the contract or as post-petition administrative expenses. In the alternative, Gotham seeks relief from the automatic stay to allow Gotham to terminate the contract and the underlying software license agreement pursuant to 11 U.S.C. § 362(d) (the “Motion”).

PLEASE TAKE FURTHER NOTICE that in support of the Motion, Gotham shall rely on the accompanying Motion and Certification of Kenneth W. Phelan with Exhibits, which collectively set forth the factual and legal bases upon which the requested relief should be granted. Pursuant to D.N.J LBR 9013-1, a memorandum of law is unnecessary because the legal grounds for the requested relief are straightforward and well-settled.

PLEASE TAKE FURTHER NOTICE that on the aforementioned date, Gotham will request that the Court enter the proposed Order submitted herewith.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief requested in the Motion shall be presented in accordance with the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court for the District of New Jersey.

PLEASE TAKE FURTHER NOTICE that unless objections are timely presented, the Motion shall be deemed uncontested in accordance with D.N.J. LBR 9013-1(a).

PLEASE TAKE FURTHER NOTICE that the undersigned hereby requests oral argument if timely objection is filed.

Date: June 20, 2023

/s/ Stephen R. Catanzaro

Stephen R. Catanzaro, Esq.
Day Pitney LLP
One Jefferson Road
Parsippany, NJ 07054
scatanzaro@daypitney.com
(973) 966-6300

Attorneys For Creditor
Gotham Technology Group, LLC